Notes for an Address by
The Honourable Anne McLellan
Minister of Justice
Attorney General for Canada
to the
Canadian Bar Association

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As delivered

Thank you very much, Daphne, for that kind introduction and for the opportunity to speak with you this morning. It is wonderful to be here in Saskatoon and a pleasure to address your Annual Conference again ¾ in fact, this is my fifth speech to your association. I enjoy this occasion because it gives me an opportunity to catch up with many friends and colleagues in the legal profession and to say thank you to the CBA.

Both my department and the Government of Canada consider the Canadian Bar Association critical to our efforts to improve the justice system - your expertise and insight help us shape our law reform and policy initiatives.

I want to offer my congratulations to your incoming president, Eric Rice, and other executive members.

I also want to express my deep gratitude to you, Daphne. It's been a wonderful working relationship over the past year. I admire your commitment on so many issues, but especially to that of legal aid which is so important to all of us concerned about access to justice issues. So thank you so much for all the efforts you've made on behalf of all of us over the past year.

Today, I would like to speak to you about an issue that is an overarching priority for the Government of Canada - our commitment to children.

The way Canadian society views children has changed dramatically. Today we believe that children should be valued for the simple fact of who they are - children.

I am not suggesting that previous generations have ignored the needs of our children. But in recent years, Canadians have told their governments consistently that children must be given a higher priority. Canadians demand more comprehensive approaches from all of us.

And, we have responded.

The Government of Canada and the provincial and territorial governments have agreed to a National Children's Agenda to better meet the needs of children. We are focusing on six priority areas: strengthening the family, early childhood development, economic security, readiness to learn, adolescent development, and supportive communities.

The Department of Justice plays a significant role in protecting children because all too often, if children, youth and families at risk are not identified and supported, we see the end results in the justice system.

The human and economic costs of leaving our children at risk is significant and unacceptable. I do not have to tell you about the billions upon billions of dollars we spend on the criminal justice system and the collateral costs of crime. Those billions do not even begin to take into account the suffering of individuals and families, or start to add up the long-term costs to society.

So what part should the justice system play in promoting the National Children's Agenda?

It would be shortsighted to concede that the role of the justice system in dealing with children is simply to provide a legislative framework within which criminal and family law disputes are decided.

If we shift our focus to the outcomes we want for our children - a nurturing environment, healthy families, safe communities and opportunities to fully participate in society - we need more than laws. We need to focus more on approaches at the community level that will enable us to achieve positive results for our children and prevent them from ending up in the courts.

This is what we are doing through the National Strategy on Community Safety and Crime Prevention.

Crime Prevention

Through it, we are supporting initiatives across this country that combat the root causes of crime and victimization.

It sounds like a tall order, but what it really means is working with communities to support at-risk children and youth - and, in turn, assisting young people and their families to deal with such things as domestic violence, substance abuse and poor literacy skills.

The Street Culture Kidz project, in Regina here in the province of Saskatchewan, is an excellent example of what I am talking about. Let me tell you a little bit about these kids, some of whom I have the opportunity to meet recently in Edmonton. And I must say I was incredibly impressed with their energy and commitment considering the challenges that they have overcome and continue to confront.

These are kids who have seen tough times, and who have had trouble getting on the right track - and staying there. The project gives these kids the opportunity to build skills, self-esteem and to take an active and positive role in their community. For example, they are organizing activities for younger children, they're learning cooking and business skills through their catering program and assuming greater responsibility by helping out in the office, delivering flyers and doing odd jobs in the community. This project is about giving kids a chance and showing them that they can choose a life that does not lead them into the criminal justice system.

Our strategy has also supported the Canadian Childcare Federation to develop a resource publication for people involved in caring for and educating troubled young children. Called *Meeting the Challenge*, it teaches adults who work with young children and their families how to head off the aggressive and anti-social behaviour that can lead to more serious problems down the road.

Just a couple of years old now, *Meeting the Challenge* has been enormously successful - so successful that 100,000 copies were shipped to the United States for use in their early childhood education programs.

Another project in Victoria helps to get children out of the sex trade. A program in Newfoundland works with young people to cope with bullying and harassment in school.

And these are just a few of the 1,700 projects that we have funded over the past three years.

All these projects are real-life examples of how we can make a difference in children's lives by working in communities across the country - program by program, family by family, child by child.

Last month, I was pleased to announce that our government would invest a further $145 million, over four years, to build on the successes of our crime prevention initiative in communities across the country.

With this added investment, we will be able to do more to protect our children and keep our communities safe.

Aboriginal youth

Aboriginal youth are of particular concern because of the special challenges they face.

Compare the proportion of Aboriginal youth in the overall youth population to the proportion of Aboriginal youth in custody. Over 70% of youth, over 70%, admitted to custody in Manitoba and Saskatchewan are aboriginal, more than 4 times their share of the population.

Just think about the impact on the future of our communities.

As the Prime Minister said in his response to the Speech from the Throne, some months ago, "When we talk about giving every child the right start in life, the most urgent place to start is with Aboriginal children."

He went on to say, "Our goal must be to reduce the number of aboriginal people incarcerated or in conflict with the law. Within a generation, there should be no disparity in the incarceration rates between aboriginals and the rest of Canadian society."

Ladies and gentlemen, this is an enormous challenge.

Obviously, we need programs and services that go well beyond the justice system. But ensuring the justice system meets the needs of aboriginal communities is also an important part of addressing this challenge.

Our Aboriginal Justice Strategy helps aboriginal communities respond to their needs and priorities with respect to crime prevention, community safety and the justice system.

The strategy supports community justice programs in more than 280 communities, both on- and off-reserve, from urban centres, like here in Saskatoon, to remote villages in the far North.

For example, in Burnt Church, New Brunswick, the Aboriginal Justice Learning Network, which I know you and the CBA are strong supporters of, provided funding to establish a Summer Cultural Camp for young teenagers, who had limited access to elders and traditional teachings. The camp has given these young people a chance to broaden their understanding of traditional ways and to take pride in their heritage.

The Aboriginal Justice Strategy has just been extended for another year and I will be seeking its renewal for a further **five** years.

While we have made some progress, as the Royal Commission on Aboriginal Peoples pointed out, the reality is that the justice system is failing many Aboriginal Canadians. To change this, we have some very difficult questions to ask.

Why is it that Aboriginal people continue to be imprisoned at a rate greater than the overall population?

Why are Aboriginal accused more likely to be denied bail and to spend more time in pre-trial detention?

Why are Aboriginal people more likely to be incarcerated?

These are not easy questions.

In fact, they should make all of us feel uncomfortable if we truly value fairness and justice.

Family Law

Another group of children to whom we must be particularly sensitive are those faced with family breakdown and the accompanying emotional, economic and legal upheavals.

Fortunately, the vast majority of divorcing and separating parents are able to resolve issues concerning their children outside the formal legal system. However, for those families who do turn to it, it is incumbent upon all of us to design a system that better responds to the needs of children and their parents.

With the help of partners like your National Family Law Section, we are making progress. For example, in 1997, the federal government introduced the Federal Child Support Guidelines under the *Divorce Act*. Parents, lawyers and judges can now establish fair, predictable, and consistent child support amounts. There is less litigation, reduced parental conflict, and we believe healthier outcomes for families.

This is succeeding in large part because of the collaboration among federal, provincial and territorial governments. Since 1997, twelve jurisdictions have introduced their own guidelines or adopted or modified the federal guidelines.

The success of this initiative demonstrates the benefits of joint planning and cooperation among governments. The most effective way to promote the best interests of ***all*** children experiencing family breakdown is for us to continue to work together toward an integrated approach to family law reform.

As required by the *Divorce Act*, I will report to Parliament no later than next May on how the child support guidelines are working. I will also propose how we can improve our laws, programs and services in the area of child custody and access.

As we move forward with reform of child custody and access, we are working collaboratively with our provincial and territorial partners and with other participants in the family law system.

As you know, the release of the 1998 report of the House-Senate Special Joint Committee on Child Custody and Access advanced this national dialogue. The Committee's work showed that those who must turn to the legal system would be better served by a less adversarial approach that encourages parental responsibilities and provides both parents with opportunities to guide and nurture their children.

In recent weeks, I have been criticized for taking too long to come forward with changes in this area. I have been criticized for asking my officials to work with their provincial and territorial counterparts to consult the public and other interested stakeholders, such as the Canadian Bar Association.

But the Committee itself urged the federal government to work with the provinces and territories to change family law in this area. And, we are.

We are working jointly through the Federal-Provincial-Territorial Family Law Committee to consult the public and co-ordinate law reform efforts so that confusion and uncertainty can be avoided for parents and children, and dare I say even lawyers and judges.

During the more than 40 consultations we held across Canada, we heard from parents, children, children's advocates, grandparents and others. I would like to thank the CBA for your participation and for your very thoughtful submission. As you rightly pointed out, family lawyers are often the first points of contact for parents and children experiencing family breakdown and you have unique insight into what works and what does not.

So what did we hear during these consultations?

This probably comes as no surprise to at least those of you who practise in the family law area. Some parents told us that settlements were difficult, sometimes seemed imposed, rather than facilitated. Some felt they were forced to accept off-the-shelf solutions that had little to do with their own personal situations.

We also felt it was important to understand the unique perspective of children and young people in this area. Only when we look through our children's eyes and listen to their voices can we begin to understand the effects that family breakdown has on them.

One child we heard from said and I quote "there was lots of yelling and arguing, and finally my mom called the cops. It was kind of scary for me; it still is when I think about it now."

Another child said: "My mom takes my dad to court a lot, and tries to keep me from spending time with him up at

All the views expressed in these consultations will be reflected in a report prepared by an independent firm which facilitated these sessions. That report will be made public.

But, as you rightly point out in your submission and I quote, "no amount of legislative change is going to stop parties who are intent on fighting." Legislation is not a quick fix solution. Rather, it is programs and services that often help people get through this difficult times.

Unified Family Courts

One method by which some of these programs and services can be delivered is through Unified Family Courts, or UFCs. By housing all services all under one roof, UFCs provide an integrated approach to permit all aspects of a family dispute to be dealt with by a single court.

These courts are designed to encourage non-adversarial techniques and to provide access to a range of support services.

We know this approach works.

International Protection Measures

Finally, I would like to spend a few moments speaking to you about a growing challenge - the challenge of protecting children regardless of borders.

You may be as surprised as I was to learn that according to a recent survey, Canadians are the 4th leading providers of child pornography images to Internet news groups. Canadians accounted for 3.6% of all images found on the day of the survey.

According to newspaper reports last week, police have linked almost 2,000 Canadians to a Texas-based Internet child-sex ring. Most of the materials sold through this site originated in Russia and Indonesia.

Clearly, the use of the Internet to traffic in such insidious material is a good example of how crime has become a global enterprise.

So, what should our response be?

First, we need to ensure we have effective domestic legislation. As the Globe and Mail pointed out in a recent editorial, Canada already has some of the toughest child pornography laws in the world.

I have proposed strengthening these laws with measures contained in Bill C-15, currently before the House of Commons. We will make it an offence to transmit, make available, export or intentionally access child pornography.

We will allow judges to order the deletion of child pornography posted on computer systems in Canada and to order the forfeiture of any equipment used in the commission of a child pornography offence.

In addition, we will create a new offence targeting criminals who use the Internet to lure and exploit children for sexual purposes.

But, we need an international response, as well.

The fact is, many of the victims of child pornography come from the developing world. The rights of children throughout the world are being violated when they are forced into prostitution or slavery, exploited for their labor or for sexual purposes.

This calls for a coordinated international response. This is why Canada will sign the *Optional Protocol to the UN Convention on the Rights of the Child, the sale of children, child prostitution and child pornography*.

And I do believe ladies and gentlemen, as members of the CBA and a forward looking organization you are going to have to play a significant role in helping us deliver on this new agenda to protect not only our children here at home but around the world.

Conclusion

Finally, Canadians have told us that we must do more for our children.

As I have indicated today, the Government of Canada has taken important steps toward ensuring that we have fewer at-risk children living in fewer at-risk families.

But we cannot do this alone.

We must work together every step we take to support our youngest citizens will lead to safer, healthier and more prosperous communities.

I look forward to working with organizations such as yours so that we can deliver on our shared commitment to meet the needs of our children.

Thank you very much.

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